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United States District Court
Western District of Virginia
Danville Division

Tyrone Young
"Petitioner"

Crim. Act. No. 4:18cr00017-Jik-1

US.

United States
of America.

Motion to leave to add
Additional Ineffective Assistance
of counsel claims pursuant
to 18.U.S.C. 2255

Come now, the defendant, Tyrone Young, Pro-se, and
referred hereafter to as "Petitioner", respectfully
moves this Honorable court to leave to
add additional Ineffective Assistance claims

Proposed amendments

This proposed amendment should be granted as timely filed because the "Petitioner" is still within his 1 year statute of limitation. Petitioner original motion was filed with the District court on May, 27, 2020. *Borden v. United States*, 106 A. F.T. R. 2d (RIA) 5282 (MD Pla 2010). *Keller v. Prince George's County* (423 F.2d 3033 (4th Cir 1991)) *Foman v. Davis*, 371 U.S. 178 1182, 832 Ct. 227, 9 L. Ed. 722 (1962) citing Fed. R. Civ. P. amendments.

The proposed amendment that are present in this motion shows on the record and files how the "Petitioner" is entitled to relief. The trial counsel states on the record at the "Sentencing Hearing" that "this may fall on counsel responsibility". The sentence transcript attached are in support of my claims. In Fed. R. Civ. P. 15 (a)(2) In all other cases, a party may amend his pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when Justice so ~~requires~~ requires. As you have read above Justice so requires because the Petitioner trial counsel admits his ineffectiveness on the record sentencing transcripts.

6) Trial counsel was ineffective when negotiating the Plea agreement and for not arguing the guideline enhancements.

A) In Strickland vs Washington the Petitioner trial counsel performance was deficient and his defense prejudiced the Petitioner. A evidentiary hearing is required because the record and Rules shows the Petitioner is entitled to relief. Please see "Sentencing transcripts" on page 4, line 1-5. "The court" says the trial counsel objection goes more to the courts consideration as to the level of punishment, not as to the PSR. Please see "line 7-8" where the Petitioner trial counsel states to the court "Yes, sir, Judge, and that may fall on counsel's responsibility."

B) The Petitioner trial counsel says "when they were negotiating the Plea agreement, discussing this, the guideline range was much lower than what the PSR indicates. The Petitioner trial counsel then goes to state "But beyond that, the sentence that Mr. Young had anticipated was a offense level 21 or 22, which is substantially lower than level 22. The Petitioner trial counsel never informed the Petitioner that his offense level could be enhanced or go pass a level 21 or 22.

The trial counsel openly admits on record this may like to pull on counsel responsibility. The trial counsel never objected to the enhancements for unauthorized transfer or the educational representative enhancements. Trial counsel could of reference the double jeopardy clause pertaining to the Petitioner two year mandatory consecutive sentence and the unauthorized transfer enhancement which is for the same conduct which is unconstitutional. Any counter argument would of been effective to put up a defense for the petitioner sentence enhancements or offense level increase.

The proper avenue for ineffective assistance claim is a § 2255 which is filed with the sentencing court. "see, United States vs. Baptiste, 1596 F.3d 214 (4th Cir. 2009).

To succeed on an ineffective assistance of counsel claim, a defendant must show that counsel performance was deficient and that the defendant performance prejudiced the defense. "see, United States vs. Hall, 771 F.3d appx - 226 (4th Cir 2019) Quoting Strickland US - Washington, 466 US 668, 687, 104 S. Ct. 2032, 80 L. Ed. 2d 674 (1984) the sixth amendment right to effective assistance of counsel extends to the plea-bargaining process. "see, Merzbucher US Sharnp 706, F.3d 356, 363 (4th Cir. 2015) "see Padilla U. Kentucky, 1359 US. 356, 373, 130 S. Ct. 1473, 176 L. Ed. 2d, 284 (2010).

contributed to the loss amount of a victim they can be held jointly liable for the loss under this statute. The objection would of made the Petitioner restitution amount to be lower and this shows he the trial counsel was ineffective.

Had the Petitioner trial counsel been effective and properly investigated the discovery evidence and witness statements pertaining to the scheme the trial counsel would of knew the AUSA minor statement regarding the Victims was false. Please see "criminal complaint" pg. 12 line 28 - Cooperating witness number 1 stated to federal investigators that he registered for college with the Petitioner via Facebook. CW-1 messages from Facebook to the Petitioner shows "Yang instructing (CW-1) how to put student loans into deferment." This evidence alone from the discovery would of proven the government testimony to be false that she gave during the "plea hearing". If the Petitioner trial counsel was effective this evidence would of been presented in the defense of the Petitioner. In order for Yang to instruct (CW-1) how to put his debt with the U.S.D.O.E into deferment the Victims had to be aware of the debt owed to the U.S.D.O.E.

C) Had the Petitioner trial counsel been effective
(6)

he would have been sentenced to a lower offense base level, restitution level, and the Petitioner sentence would be lower than what it is today. Therefore the trial counsel defence prejudiced the Petitioner because he sentence is much higher because he failed to object.

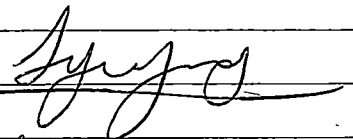
These additional ineffective assistance of counsel claims are timely because the Petitioner is still within his 1 year limitation. Petitioner filed his original 2885 on May 12, 2020. right after his direct appeal was dismissed as untimely.

Certificate of Service

Defendant certifies that a copy of this motion has been served by U.S. Postal mail to c/o Roaneke, VA U.S. District Court

Date: SUN, May 23, 2021

cc: US attorney



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FCI McDowell

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Yvonne Young #22208-084

Federal Correction Institute

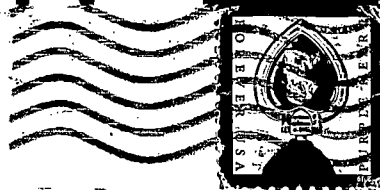
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